

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II, Species I in the reply filed on 10/28/2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Response to Amendment

2. The amendments to the claims filed on 10/28/2009 have been accepted. Claims 1-28 and 31 are pending in the application. Claims 1-8, 10-22 and 25-28 have been withdrawn from consideration as being drawn to a non-elected species.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

4. Claims 24 and 31 are objected to because of the following informalities: Claim 24 recites "A container as claimed in claim 22", making the claim depend on a withdrawn claim, and should perhaps instead be –A container as claimed in claim 23—in order to correct the issue. Claim 31 recites "wherein said casing is split into a body

part and a cap part along a split line each having a movable connection which is formed between said body part and said base" and should perhaps instead be -- wherein said casing is split into a body part and a cap part along a split line, each of said parts having a movable connection which is formed with said base—in order to include a movable connection between the body part and the base as well as the cap part and the base.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claims 23 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 23, line 3 recites, "a case pivoted to the base" and line 8 recites,"wherein the case has a closed end that is pivoted to the base". It is unclear whether this is meant to be the same pivot, as shown in the drawings, or two separate pivots.

As to claim 31, line 4 of the claim recites "a notional contained volume comprising two end regions". It is unclear as to what the Applicant is trying to define, as the volume contained within the casing actually exists and is therefore by no means notional. Perhaps the Applicant is trying to define a notional plane in the contained volume which divides the volume into two regions?

Claim Rejections - 35 USC § 102

6. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Miyahara (US 6129237, of record).

As to claim 9, Miyahara discloses a container comprising: a case (1), a lid (11); a support (16), wherein there are first means (19, 20) to effect a rotary connection of the case to the lid, and second (18) and third (17) means to effect a rotary connection of the case and lid respectively to the support, the first means being intermediate between the second and third means (with respect to a vertical axis when in the position shown in Fig. 5); a shift connection means, wherein at least one of the said means being adapted to effect also said shift connection means wherein in which at least one said shift connection means comprises a pin-and-guide connection (19, 20) (Fig. 1-6; Col. 2, line 50 - Col. 3, line 48).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 23 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel (US 4541527) in view of Holden (US 1720274).

As to claim 23, Nagel discloses a container comprising: a base (20), a case (11) pivoted (by use of pins 22 and corresponding holes) to the base, and a lid (12) pivoted (by use of pins 23 and corresponding holes) to the case and pivotally connected to the base, the container being such that it can be held in one hand and simultaneously opened using only that hand, the lid-to-case pivot being intermediate between the case-to-base pivot and the lid-to-base connection (Shown in Fig. 3A-4): wherein the case has a closed end (taken to be the portion of the case located below an imaginary horizontal plane created by the lowest portion of the case opening **16**, when viewed in Fig. 3A) that is pivoted to the base and has an open end (taken to be the portion of the case located above the horizontal plane), and the lid has a hinge (13) at which it is pivoted to the open end of the case and has a closed end (taken to be the portion of the lid above a second imaginary horizontal plane which passes through the highest point of the lid opening **15**, when viewed in Fig. 3a) pivotally connected to the base (Fig. 1-4; Col. 3, line 54-Col. 4, line 40). Nagel does not expressly disclose the lid is pivotally slidably connected to the base nor the base is provided with slots and the lid has lugs which slide pivotally in the slots.

However, Holden discloses a container comprising a base (31) and lid (30) pivotally and slidably connected to the base, wherein the base is provided with slots (34) and the lid has lugs (33) which slide pivotally in the slots (Fig. 7 and 7; Page 2, ll. 1-18). Having the lid be pivotally slidably connected to the base allows for a wider range of motion of the lid with respect to the base and therefore allows for easier access to any contents in the container.

Therefore, at the time of invention it would have been obvious to one of ordinary skill in the art to modify the container taught by Nagel to provide the base with slots and the lid with lugs, thereby making the lid pivotally slidably connected to the base, as taught by Holden, in order to allow for a larger angle of opening of the container and thus allow for easier access to the contents of the container.

As to claim 31, Nagel discloses a container comprising: a base (20); a casing (10) supported by the base wherein when said casing is closed, said casing has a contained volume comprising two end regions, wherein said casing is split into a body part (11) and a cap part (12) along a split line (taken to be the plane formed by edges 15 and 16 in Fig. 3A), each of said parts having a movable connection (22 and 23, respectively) which is formed with said base; and a rotary connection (13) formed between said body part and said cap part so that said split line is able to open in a direction away from the base so as to expose one of said regions, so that contents in that region can readily be grasped when the container is thus opened (Fig. 1-4; Col. 3, line 54-Col. 4, line

40). Nagel does not expressly disclose one of said connections comprises a shift connection.

However, Holden discloses a container comprising a base (31) and lid (30) pivotally and slidably connected to the base by a shift connection, wherein the base is provided with slots (34) and the lid has lugs (33) which slide pivotally in the slots (Fig. 7 and 7; Page 2, ll. 1-18). Having the lid be pivotally slidably connected to the base allows for a wider range of motion of the lid with respect to the base and therefore allows for easier access to any contents in the container.

Therefore, at the time of invention it would have been obvious to one of ordinary skill in the art to modify the container taught by Nagel to provide the base with slots and the lid with lugs, thereby making the lid pivotally and shiftily connected to the base, as taught by Holden, in order to allow for a larger angle of opening of the container and thus allow for better access to the contents of the container.

10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel and Holden as applied to claim 23 above, and further in view of Fuhri (US 4372630).

As to claim 24, Nagel and Holden teach a container as claimed in claim 23, in which the closed end of the case is mounted to the base by means of a pair of cylindrical pivot lugs assembled co-axially within corresponding circular holes in the base and the lid is mounted by means of a pair of cylindrical lugs inserted into a corresponding pair of slots in the base, these lugs being free to

slide within the slot length. Neither expressly discloses the open end of the case has a boss parallel to the edge of the case with a concentric, cylindrical hole; the lid has a corresponding cylindrical pin assembled co-axially with the hole in the boss, thereby providing a hinge interconnecting the case and lid and providing a second pivot point

However, Fuhri discloses a container comprising a lid (14) and a case (12) having an open end, the open end of the case having a boss (32) parallel to the edge of the case with a concentric, cylindrical hole, the lid having a corresponding cylindrical pin (36) assembled co-axially with the hole in the boss, thereby providing a hinge interconnecting the case and the lid and providing a pivot point (Fig. 1-3; Col. 3, ll. 36-49). Fuhri discloses this type of hinged connection allows for the lid to be removed from the case while still providing a hinged connection between the lid and the case.

Therefore, at the time of invention it would have been obvious to one of ordinary skill in the art to modify the container taught by Nagel and Holden to use the teachings of Fuhri to provide the open end of the case with a boss parallel to the edge of the case with a concentric, cylindrical hole and the lid with a corresponding cylindrical pin assembled co-axially with the hole in the boss, thereby providing a hinge interconnecting the case and lid and thereby providing a second pivot point in order to allow the lid to be removed from the case while still providing for a hinged connection between the case and the lid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett Edwards whose telephone number is (571)270-1443. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. E./
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